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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,945	11/21/2003	Maria Teresa Vilarasau Alegre	ABA 5085.21	3532

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EXAMINER	
FERNANDEZ, KALIMAH	

ART UNIT	PAPER NUMBER
2881	

DATE MAILED: 06/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/719,945	VILARASAU ALEGRE, MARIA TERESA	
	Examiner	Art Unit	
	Kalimah Fernandez	2881	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-11 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-11 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 21 November 2003 is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims1-7 and 11 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 6,653,647. Although the conflicting claims are not identical, they are not patentably distinct from each other because patented claims anticipates the instant claims.

3. Claims 8-10 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of

U.S. Patent No. 6,653,647 in view of US Pat No. 6,047,714 issued to Akazawa.

4. As stated above, the instant claims are obvious variations of the patented invention. Here, claims 8-10 recite the additional features of a positioning means. The disclosure of Akazawa is relied upon to illustrate the desirability of a traction mechanism as knew in the art (see col. 5, lines 40-67). In particular, Akazawa teaches an air duct cleaning apparatus that uses a cable-like mechanism (see col.5, lines 44-45) and the art-recognized equivalents of a mechanical positioning means and of manual mean (col. 6, lines 39-40). The use of a traction mechanism to move a cleaning apparatus through an air duct is notoriously old in the art as illustrated by Akazawa.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1,3, and 7-8 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat No 5,020,188 issued to Walton.

7. Walton discloses a mobile device for disinfecting a ventilation ductwork (col.1, lines 5-7).

8. Walton discloses the device is adapted to be inserted inside the duct (col.1, lines 58-63).

9. Walton discloses an axle (21) operably connected to a front end disc (16,17) wherein axle (21) is also operably connected to at least one UV ray lamp around axle (21) (col.5, line 67-col.6, lines 7). In particular, Walton discloses a plurality of UV lamps mounted near the turbine (18) and brackets (23), which are both positioned around the axle (21) (see figs. 4-5).

10. As per claim 3, Walton discloses the axle is operably connected to a plurality of ultraviolet ray lamps (col.6, lines 1-7).

11. As per claim 7, Walton discloses tubing for electric input to lamps (col.6, lines 24-30).

12. As per claim 8, Walton discloses a means for positioning the device at a desired location inside duct (col.6, lines 51-64).

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

14. Claims 2,4,5-6, and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walton.

15. Walton teaches the claimed invention but does not explicitly teach the UV lamps are parallel to the axle (21).

16. However, an artisan having ordinary skill at the time of the invention would have found it obvious to mount UV lamps in a configuration wherein the axle (21) and the lamps are parallel because it has been held that rearranging parts of an invention involves only routine skill in the art. In Re Japikse, 86 USPQ 70. The rearranging of the UV lamps in Walton must constitute more than a minimal contribution or mere trivial variation. A reading of Walton must be made in view of the level of ordinary in the art in that an artisan would have found it obvious to arrange the lamp as desired from the disclosure (col.6, lines 1-7):

" Ultraviolet lamps suitably mounted on the sled (1) may provide this light. UV lamps (no shown) typically mounted on sled (1) adjacent to turbine (18) may dry and disinfect the previously sprayed side interior sidewalls of the ductworks."

19. In addition, an artisan having ordinary skill would have obvious motivation to arrange the UV lamp parallel to the axle (21) since Walton teaches arranging the UV lamp for efficient drying and disinfecting the walls of the duct (col.6, lines 1-10). Here, the mounting the UV lamp mounted above and below the video camera (800) and parallel to the axle (21) so as to efficiently irradiate the top and bottom walls of the duct (see fig. 5).

17. As per claims 5-6, Walton teaches revolving means (8,9,10,11) attached to the sled (1) such that both an edge of the discs (16,17) and the revolving means are attached (see fig. 5).

18. As per claims 9- 10, Walton teaches a cable (900) affixed to the various components of the sled (1) (col.6, lines 33-36;col.6, lines 56-60; see fig. 8). Walton does not explicitly teach affixing the cable to the front end of the axle or to the back end of the axle. Rather, the disclosure is sufficient to motivate an artisan having ordinary skill at the time of Walton's invention to affix the cable (900) as needed, including the recited location,

wherein the obvious advantage would be improved stability by affixing the cable to the either axles (21).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kalimah Fernandez whose telephone number is 571-272-2420. The examiner can normally be reached on Mon-Tues 6:30-3:30; Wed-Thurs 8-5 and Fri.9am-6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R Lee can be reached on 571-272-2477. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

kf

JOHN R. LEE
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